

NEW YORK STATE PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of the Arbitration Between
TOWN OF LYME, NEW YORK,

Employer,

-and-
THE INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, LOCAL 687 HIGHWAY DEPARTMENT,
(Class Action, Grievants), Union.

OPINION

AND
AWARD

PERB CASE NO.

VIA2006-042

Before: MICHAEL S. LEWANDOWSKI, Impartial Arbitrator

Appearances:

For the Town: Mark Gebo, Esq.
Hrabchak, Gebo & Langone, LLP

For the Union: Brian Hammond
Business Agent
Teamsters Local 687

PUBLIC EMPLOYMENT RELATIONS BOARD
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CONCILIATION

The Town of Lyme, New York ("Town") and the International Brotherhood of Teamsters, Local 687 ("Union") engaged in bargaining to replace the collective bargaining agreement that expired on December 31, 2006. Despite a number of bargaining sessions the parties were unable to reach agreement on two issues; wage increases and health insurance. Ultimately, the parties determined that impasse had occurred and the dispute was referred to the New York State Public Employment Relations Board ("PERB") for Voluntary Interest Arbitration. Pursuant to the collective bargaining agreement between the parties and PERB's rules, the undersigned was designated arbitrator.

HEALTH INSURANCE

The sole remaining issue is that of health insurance.

The Union proposes keeping the same health insurance plan the same 10% of premium contribution rate.

The Town proposes reducing health insurance costs by either changing to a less expensive Teamsters' plan or arranging for cost reduction achieved thru buying back sick days.

My analysis of the evidence and argument follows.

EVIDENCE AND ANALYSIS

This is a five (5) person bargaining unit comprised of employees of the Town's Highway Department. The parties provided evidence on ability to pay and comparability of wages and health insurance benefits provided by other public employers that have the same type of operation as the Town.

Data presented by both parties supports the payment of the \$.50 per hour per year increase (a 3.2% increase) advanced by both parties here. The Union points to the 5% per year increase given school district employees who drive

buses however I note that the school district is an entity separate from the Town. The Town provided (Town exhibit 3) data that shows 22 area municipalities that employ similar workers. That data shows the Town ranking 9 of 22 as far as wages paid. The lowest paying municipality, Lorraine, paid its workers an average of \$12.20 per hour; the highest paying municipality, Brownville, paid its workers an average of \$17.50 per hour. The Town of Lyme pays its workers in this unit an average of \$15.25 per hour. Equally important to the data on comparables however is the fact that the Town makes no argument that it cannot afford the \$.50 per hour per year increase and has, as noted above, adopted that rate of increase as its position in this dispute.

Based on the above, I find it proper to award a \$.50 per hour increase for each of the two years permitted under this arbitration award.

As referenced to above, the heart of this dispute is the fact that the parties have vastly different positions on health insurance. The Union provides data showing that the Lyme Central School District employees contribute 10% towards the premium of their health insurance. The Union

also offers the following comparable employers/employees for comparison of the Union's position on health insurance.

<u>MUNICIPALITY</u>	<u>% OF CONTRIBUTION TOWARDS HEALTH INSURANCE</u>
TOWN OF LYME	10
ALEXANDRIA	7
BROWNVILLE	0
CLAYTON	2.5
CAPE VINCENT	0

The Union asserts that each of the above comparable municipalities have the same or similar demographics as the Town of Lyme.

The Town asserts that it does not compare to the comparables offered by the Union. The Town raises \$147,067.00 annually in taxes. Each \$1,470.67 increase in the Town's operating budget would require the Town to raise taxes one percent (1%) to pay for the increased benefit provided by the award. The Town currently provides the bargaining unit members involved in the instant dispute with the most costly health insurance plan offered by the Teamsters. The following figures showing current and projected health insurance premium increases. This data

is also undisputed.

<u>YEAR</u>	<u>COVERAGE</u>	<u>PREMIUM</u>	<u>INCREASE OVER 2007</u>
2007	Single	\$5,379.40	
2008		\$6,060.60	\$ 681.20
2009		\$6,843.20	\$1,463.80
2007	2-person	\$10,168.60	
2008		\$11,515.40	\$1,346.80
2009		\$13,062.40	\$2,893.80
2007	Family	\$13,756.60	
2008		\$15,607.80	\$1,851.20
2009		\$17,732.00	\$3,975.40

The above evidence shows a substantial increase in the costs the Town must pay to maintain employee health insurance for the members of this unit. The family plan increases by about 29% over the period running from 2007 to 2009. The undisputed fact is that the Town would see its health insurance costs for this bargaining unit increase \$19,000 over the period of 2007 to 2009. This is over \$3,000 per employee in the unit. Town figures show that just for the health insurance increases alone, Town taxes will have to rise 4.76% for 2007; 9.52% for 2008 and 10.85% for 2009.

One of the key principles arbitrators apply first and foremost in interest arbitration is the ability of the employer to pay any portion of the award made by the arbitrator. Arbitrators, regardless of any of any other data presented, may not award salary or benefits that exceed a public employer's ability to pay. In effect, ability to pay is the precondition to any other term of an award. Here, the data shows that comparable employers, on average, pay a lesser percentage of premium but the Union data does not show if the coverage provided is equal to or lesser than the Teamsters plan the Town of Lyme provide. What is abundantly clear from the data provided is that the taxpayers of the Town of Lyme would have to undergo in excess of a 23% increase in taxes in order to fund the health insurance plan at its current benefit level during the term of this award.

The data shows this to be the case because there is no new residential growth or commercial growth that could possibly be expected to offset the increases in premiums paid by the employees. All increases in wages and benefit costs would thus be born by the existing tax base. While it is not unusual for an arbitrator in an interest arbitration to make an award that may raise taxes, it would

be highly unusual for the award to result in a 23% increase over such a short period of time. In fact, so unusual and so burdensome on the taxpayers that I cannot in all good conscience make such an award. I find the data thus shows an inability to pay the increased premiums facing the Town if the Union's proposal were to be accepted. I therefore find it appropriate to accept the Town's proposal on this issue.

The bottom line is that based on the data presented, I find that the Town cannot afford to maintain the current level of health insurance benefits. This is a town where 10.2% of the residents are below the poverty level (Town exhibit on demographics). The undisputed data also presented by the Town shows that based on what the Town has already agreed to in bargaining with this unit outside of this interest arbitration, the Town will have to impose a 7% tax increase. Additional costs associated with the rising cost of health insurance will simply place too great a burden on the Town's taxpayers.

Based on the above, I would find it proper to accept the health insurance proposal made by the Town to permit employees to sell back 10 of their sick days per year at 75% of the value of those sick days to offset the increases in the health insurance costs however even using those figures, the unit members would suffer significant losses in benefits and the Town would still face significant increases in costs. Alternatively, in order to avoid the foregoing, I find a reduction in the level of Teamster health insurance plan coverage as an appropriate means to address the rising costs of health insurance.

I recognize that the reduction in benefit plans represents a significant reduction in benefits however in my honest opinion the data shows that the Town is not able to continue to fund the dramatic increases in health insurance premiums that the current plan contains.

